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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,885	09/12/2003	Seiji Hashimoto	1232-5139	6942
27123	7590	03/20/2007	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			LE, TUAN H	
		ART UNIT	PAPER NUMBER	
				2622
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/20/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/660,885	HASHIMOTO, SEIJI	
	Examiner Tuan H. Le	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 September 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
  - 4a) Of the above claim(s) 8-10 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 September 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Election/Restrictions***

Applicant's election of the Group I which read on claims 1-7 in the reply filed on February 22, 2007 is acknowledged. Because **applicant did not distinctly and specifically point out the supposed errors in the restriction requirement**, the election has been treated as an election **without traverse** (MPEP § 818.03(a)).

Claims 8-10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claim group, there being no allowable generic or linking claim. Election was made **without traverse** in the reply filed on February 22, 2007.

**The Election/Restrictions requirement is still deemed proper and is therefore made Final.**

### ***Drawings***

Figures 1-4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the

applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claim 5** recites the limitations "the period during which the amount of light that causes the flicker" and "the predetermined value or smaller" in lines 2-4. There is insufficient antecedent basis for these limitations in the claim.

**Claim 6** recites the limitations "the period during which the amount of light that causes the flicker", "said predetermined value or smaller", and "the amount of light emitted by" in lines 8-11. There is insufficient antecedent basis for these limitations in the claim.

**Claim 7** recites the limitation "the period during which said image pickup unit accumulates photoelectric charges" in lines 16-17. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by**

**Poplin et al (U.S. Pat. 7,187,405 B2).**

Regarding **claim 1**, Poplin et al discloses an image pickup apparatus comprising:  
an image pickup unit (10) for picking up an image of an object;  
a detection circuit (24) for detecting a flicker; and  
a correction circuit (26) for adjusting an image pickup condition of said image pickup unit in accordance with a detection result of said detection circuit, (see Poplin et al, Fig. 1, column 1 lines 65-67, and column 6 lines 12-20).

As for **claim 2**, as previously mentioned in the discussion of claim 1, Poplin et al discloses all of the limitations of the parent claim. In addition, Poplin et al discloses that the image pickup condition is a condition for driving said image pickup unit, (see Poplin et al, column 6 lines 12-20).

As for **claim 3**, as previously mentioned in the discussion of claim 1, Poplin et al discloses all of the limitations of the parent claim. In addition, Poplin et al discloses that during a period other than a period during which the amount of light that causes the

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flicker is a predetermined value or smaller, said correction circuit permits said image pickup unit to accumulate photoelectric charges, (see Poplin et al, column 10 lines 1-4).

As for **claim 4**, as previously mentioned in the discussion of claim 1, Poplin et al discloses all of the limitations of the parent claim. In addition, Poplin et al discloses

a light source (14) for emitting light,

wherein the image pickup condition (32,34) is a light emission timing of said light source, (see Poplin et al, Fig. 1, Fig. 3, and column 6 lines 14-24)

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

**Munson et al (U.S. Pat. 6,295,085 B1)** discloses a method and apparatus for eliminating the oscillating effect of a light source. The method detects a set of light intensity levels, generates a set of pulses based on the set of light intensity, and determines an oscillating frequency of the light source based upon the set of pulses.

**Kasahara et al (U.S. Pat. 6,710,818 B1)** discloses illumination flicker detection apparatus, illumination flicker compensation apparatus and ac line frequency measuring apparatuses and methods of detecting illumination flicker, compensating flicker, and measuring ac line frequency.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan H. Le whose telephone number is (571) 270-1130. The examiner can normally be reached on M-Th 7:30-5:00 F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tuan Le  
March 15, 2007.



LIN YE  
PRIMARY PATENT EXAMINER